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09/881,873	06/14/2001	Kulvir S. Bhogal	AUS920010390US1	8232

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EXAMINER
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ZEWDU, MELESS NMN

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/881,873	<b>Applicant(s)</b> BHOGAL ET AL.	
	<b>Examiner</b> Meless N. Zewdu	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the communication filed on 10/25/06.
2. Claims 1-32 are pending in this action.
3. This action is final.

### ***Claim Objections***

Claims 2 and 17 are objected to because of the following informalities: claims 2 and 17 recite, "adding the modified call count". Since there is no more than one modified call count shown or recited, applicant needs to clearly show the modified call counts that are to be added. Appropriate correction is required.

Claims 3 and 18 are objected to because of the following informalities: the claims recite 'subtracting the modified call count from a time ration'. Although such a description exists in the disclosure, examiner finds it difficult to understand since the feature contradicts the convention of measuring units, which are conventions/norms in arithmetic. According to the recited feature, a call count (call per time) is being subtracted from time ration, which is time. Appropriate correction is required.

Claims 4 and 19 are objected to because of the following informalities: the claims recite 'rounding the call count'. The specification clearly provides rounding time; but, it does not say/show how a call count is rounded. Besides, a call count deems to be a whole number that does not require rounding. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 6, 16, 17, 21 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Lahtinen (US 6,275,708 B1).

**As per claim 1:** Lahtinen discloses a method of tracking communications usage time (see abstract) comprising:

Counting time increments in response to a call (see fig. 2, elements 86 and fig. 3; col. 3, lines 64-66);

determining a call count based on time increments (see fig. 2, element 85 and fig. 3, steps 23-24; col. 3, lines 63-64); and

modifying the call count based on calling plan parameters (see col. 4, lines 3-26; claims 1 and 7). As disclosed, calls are counted based on time/counter and are added, hence modified. Furthermore, "paging load limitation" of the prior art could be considered as calling/paging plan.

**As per claim 2:** Lahtinen discloses a method of adding the modified call count (see col. 4, lines 17-26; claim 7);

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determining an accumulated call count (see col. 4, lines 17-29; claim 7). As disclosed, calls are increased or decreased until reaching a preset threshold value, hence the increase or decrease provides an accumulated call value.

**As per claim 6:** Lahtinen discloses a method, wherein modifying the call count comprises discounting/deducting an incoming call (see col. 4, lines 47-59; claim 7). As disclosed, the prior art counts calls upward or downward, hence increasing or decreasing a call count.

**As per claim 16:** the features of claim 16 are similar to the features of claim 1, except claim 16 is directed to a computer readable medium intended to perform the steps of claim 1. However, the prior art discloses the steps of claim 1, as discussed therein. Hence, the computer readable medium must be an inherent feature in the prior art communication system.

**As per claim 17:** the features of claim 17 are similar to the features of claim 2. Hence, claim 17 is rejected on the same ground as claim 2 and including the explanation provided regarding the rejection of claim 16.

**As per claim 21:** the feature of claim 21 is similar to the feature of claim 6. Hence, claim 21 is rejected on the same ground as claim 6, including the explanation provided regarding the rejection of claim 16.

**As per claim 31:** the features of claim 31 are similar to the features of claim 1, except claim 31 is directed to a system intended to perform the functions/steps of claim 1. However, the prior art discloses the steps of claim 1, as discussed therein. Hence, a system that performs the steps of claim 1 must be an inherent feature in the prior art.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8, 22-23 and 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lahtinen in view of Toda (assigned to NEC CORP), (JP 07066909

A). For examination purpose, claim 32 is considered first.

**As per claim 32:** Lahtinen discloses a method of tracking communications usage time (see abstract) comprising:

Counting time increments in response to a call (see fig. 2, elements 86 and fig. 3; col. 3, lines 64-66);

determining a call count based on time increments (see fig. 2, element 85 and fig. 3, steps 23-24; col. 3, lines 63-64); and

modifying the call count based on calling plan parameters (see col. 4, lines 3-26; claims 1 and 7). As disclosed, calls are counted based on time/counter and are added, hence modified. Furthermore, "paging load limitation" of the prior art could be considered as calling/paging plan.

But, Lahtinen does not explicitly teach about storing the modified call count in the memory of a cellular telephone unit, as claimed by applicant. However, in the same field of endeavor, Toda teaches about a telephone set comprising a counter for recording the

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calls performed and an adder for accumulating/storing the calls counted during a discounted tariff time period based on the output of a clock (see abstract). It is to be noted that the accumulated call count can be considered as a modified call count since the accumulated call count is not the same as the initial call count. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Lahtinen with that of Toda for the advantage of a subscriber to optimize utilization of discount tariff during a specified time period.

**As per claim 7:** Toda teaches a method, wherein modifying the call count comprises discounting a night time call (see title; abstract). Toda's reference teaches about a discounted tariff time period, which could include any discounted time period designated for such purpose, including night time call discount.

**As per claim 8:** Toda teaches a method, wherein modifying the call count comprises discounting a weekend call (see title; abstract). Toda's reference teaches about a discounted tariff time period, which could include any discounted time period designated for such purpose, including a weekend call discount time period.

**As per claim 22:** the feature of claim 22 is similar to the feature of claim 7. Hence, claim 22 is rejected on the same ground and motivation as claim 7 and further including the explanation provided regarding the rejection of claim 16.

**As per claim 23:** the feature of claim 22 is similar to the feature of claim 8. Hence, claim 23 is rejected on the same ground and motivation as claim 8 and further including the explanation provided regarding the rejection of claim 16.

Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 16 above, and further in view of Schwedes et al. (DE 19646892 A1).

**As per claim 3:** the references applied to claims 1 and 16 above do not explicitly teach about determining a remaining call time, as claimed by applicant. However, in the same field of endeavor, Schwedes teaches about metering call charge rate display for telecommunication terminal, wherein the remaining time to the next call charge rate is displayed, using a counter that continuously counts the remaining or expired time with respect to a received call charge rate (see abstract). Note: although the claim calls **"subtracting the modified call count from a time ration"** to determine the remaining call time, the prior art arrives at same result (determining remaining call time) using a different technique. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Schwedes for the advantage of enabling a subscriber to determine the remaining time to the next call.

**As per claim 18:** the features of claim 18 are similar to the features of claim 3. Hence, claim 18 is rejected on the same ground and motivation as claim 3, and further including the explanation provided in relation with the rejection of claim 16.

Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Abe et al. (Abe) (US 5, 966,509).

**As per claim 4:** But, the above references do not explicitly teach about rounding a call count, as claimed by applicant. However, in a related field of endeavor, Abe teaches



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about a network management device including rounding of a call count (see col. 26, lines 19-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the above references with the teaching of Abe for the advantage of providing a better call count management.

**As per claim 19:** the feature of claim 19 is similar to the feature of claim 4. Hence, claim 19 is rejected on the same ground and motivation as claim 4.

Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Kraushaar et al. (Kraushaar) (US 4, 200,771).

**As per claim 5:** the above references do not explicitly teach about a method of subtracting an initial connection time from a call count, as claimed by applicant. However, in the same field of endeavor, Kraushaar teaches about "traffic measuring device based on state transaction" wherein a call time monitor/time counter is provided to monitor current time which is either to be added to or subtracted from an accumulated total call duration (see col. 5, 3-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the above references for the advantage of providing more accuracy in counting calls (see abstract, lines 1-7).

**As per claim 20:** the feature of claim 20 is similar to the feature of claim 5. Hence, claim 20 is rejected on the same ground and motivation as claim 5.

Claims 9-11 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 16 above, and further in view of Spitaletta et al. (Spitaletta) (US 6,112,077).

**As per claim 9:** as discussed above (claims 1 and 16) Lahtinen teaches about a modified call count. But Lahtinen alone or in view of Toda, does not explicitly teach about a method further comprising – providing a special usage parameter (rate) and

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calculating a special call count based on the special usage parameter (rate), as claimed by applicant. However, in the same field of endeavor, Spitaletta teaches about a non-reusable cellular telephone, wherein the cellular telephone is provided with a means to account for the cost difference of calls made to different calling areas, including calls within one area code (local) and long distance calls by deducting time at different rate (see col. 4, lines 19-34). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the above reference/s with the teaching of Spitaletta for the advantage of enabling the cellular telephone to store a plurality of rate factors corresponding to area codes and dialing prefixes of possible phone numbers for calculating the remaining time of the calling time (see col. 2, lines 27-30).

**As per claim 10:** Spitaletta teaches about a method, wherein the special usage parameter comprises a long distance parameter (rate), and the special call count comprises a long distance usage count (see col. 4, lines 19-34).

**As per claim 11:** Spitaletta teaches about a method, wherein the special usage (rate) comprises a local distance parameter (rate), and the special call count comprises a local distance usage count (see col. 4, lines 19-34).

**As per claim 12:** the feature of claim 12 is similar to the feature of claim 7, with the exception that the call in claim 12 recites '**special usage**'. With absence of showing the criticality of a '**special usage**' examiner interprets a special call as a usage of a call in a given particular time, which is provided by the reference. Hence, claim 12 is rejected on the same ground and motivation as claim 7.

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**As per claim 13:** the feature of claim 13 is similar to the feature of claim 8, with the exception of claim 13 recites '**special usage**'. With absence of showing the criticality of a 'special usage' examiner interprets a special usage as a usage of a call in a given particular time, which is provided by the reference. Hence, claim 13 is rejected on the same ground and motivation as claim 8.

**As per claim 24:** the features of claim 24 are similar to the features of claim 9. Hence, claim 24 is rejected on the same ground and motivation as claim 9 and further including the explanation provided with regard to the rejection of claim 16.

**As per claim 25:** the feature of claim 25 is similar to the feature of claim 10. Hence, claim 25 is rejected on the same ground and motivation as claim 10 and further including the explanation provided with regard to the rejection of claim 16.

**As per claim 26:** the feature of claim 26 is similar to the feature of claim 11. Hence, claim 26 is rejected on the same ground and motivation as claim 11 and further including the explanation provided with regard to the rejection of claim 16.

**As per claim 17:** the feature of claim 27 is similar to the feature of claim 7, with the exception that the call in claim 27 recites '**special usage**'. With absence of showing the criticality of a '**special usage**' examiner interprets a special call as a usage of a call in a given particular time, which is provided by the reference. Hence, claim 27 is rejected on the same ground and motivation as claim 7.

**As per claim 28:** the feature of claim 28 is similar to the feature of claim 8, with the exception, that claim 28 recites '**special usage**'. With absence of showing the criticality of a 'special usage' examiner interprets a special usage as a usage of a call in a given

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particular time, which is provided by the reference. Hence, claim 28 is rejected on the same ground and motivation as claim 8.

Claims 14-15 and 29 -30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above and further in view of Brown (US 5,987,107).

**As per claim 14:** the above references do not explicitly teach about a method, wherein the special usage parameter comprises a peak usage parameter, and the special call count comprises a peak usage count, as claimed by applicant. However, in the same field of endeavor, Brown teaches about charging for usage of a telecommunications network, wherein calls are defined by type, each call being identified based on the call type and calculating and accumulating charges (see col. 2, lines 10-37; col. 5, lines 41-56), utilizing discount schemes. Note: call type, in the context of Brown's reference is considered to include peak type call. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Brown for the advantage of encouraging increased use of a network during off-peak periods (see col. 2, lines 10-22).

**As per claim 15:** Brown teaches a method, wherein the special usage parameter comprises an off-peak usage parameter, and the special call count comprises an off-peak usage count (see col. 2, lines 10-37; col. 5, lines 41-56). Brown also provides motivation as a marketing tool for " ---providing discounts for particular types of calls" (see col. 2, lines 10-11).

**As per claim 29:** the feature of claim 29 is similar to the feature of claim 14. hence, claim 29 is rejected on the same ground and motivation as claim 14.

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**As per claim 30:** the feature of claim 30 is similar to the feature of claim 15. Hence, claim 30 is rejected on the same ground and motivation as claim 15.

### ***Response to Arguments***

Applicant's arguments filed 10/25/06 have been fully considered but they are not persuasive. Arguments and responses are shown in the following text.

**Argument I:** with regard to claim 32, applicant asserts that Lahtinen (US 6,275,708 B1) fails to teach or suggest modifying the call count based on calling plan parameters, as claimed and Toda (JP 07066909 A) is not relied upon by examiner for such a teaching, and therefore, the obviousness rejection fails on at least this ground.

**Response I:** examiner respectfully disagrees with the argument. In that, examiner is not unaware of Toda's teaching of the feature in question. The reason Toda is not relied upon for such a teaching is to avoid redundancy. Lahtinen, as discussed in the body of the rejection claim 32, teaches about increasing or decreasing (thus modifying) a call count in order to limit a paging load, which examiner considers as a calling/paging parameter. The deficiency in Lahtinen is that it is silent about storing a modified call count in the memory of a cellular telephone unit. This deficiency is cured by Toda's teaching of **a telephone set wherein an adder accumulates the calls counted**. When combined, the calls counted and accumulated would have to be based on Lahtinen's counting up (adding) or counting down (decreasing), hence modified. Thus, the argument is not found to be convincing.

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**Argument II:** applicant further asserts, regarding claim 32, that neither Lahtinen nor Toda discloses or teaches storing the modified call count in the memory of a cellular telephone unit, a claimed.

**Response II:** examiner disagrees with the argument. In that, first, the cellular telephone of claim 32 does not include cellular functions/calls to be different from Toda's telephone set. In other words, there exists functional equivalency, i.e., storing/accumulating call counts. Second, a telephone set can include cellular telephones. Thus the argument is not persuasive.

**Argument III:** applicant further asserts that Toda does not disclose storing any data in the memory of a cellular telephone, as claimed in claim 32.

**Response III:** examiner respectfully disagrees. In that, it is disclosed/taught in Toda's reference that, "the adder accumulates the calls counted during the discounted tariff time period based on the output of a clock", (emphasis added). As to whether the storing device is a cellular telephone or not is as provided above. Thus, the argument is not persuasive.

**Argument IV:** regarding claims 1, 2, 6, 16, 17, 21 and 31, applicant asserts that the combination or the references (Lahtinen alone or combined with Toda) does not disclose or teach discounting a call for any reason.

**Response IV:** examiner disagrees with the argument. In that, the rejection of these claims is an anticipatory one and Lahtinen alone discloses the claimed features. In Lahtinen, (see for example claims 1 and 7) the number of calls is either increased or

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decreased, in a word, modified. Examiner's broad interpretation of 'discounting a call' is decreasing a call count. Thus, the argument is not convincing.

**Argument V:** with regard to claims 7, 8, 22 and 23, applicant asserts that "the references alone or in combination cannot teach or suggest discounting a night time call as claimed in claims 7 and 22 or a weekend call as claimed in claims 8 and 23."

**Response V:** examiner disagrees with the argument. In that Toda's reference discloses/teaches "adder to record total number of calls during discounted tariff time periods (see title; abstract). Examiner is of the opinion that the phrase "discounted tariff time period" broadly includes any time period designated for such purpose, be it night time or weekend. Thus the argument is not found to be persuasive.

**Argument VI:** with regard to claims 32, applicant asserts, "there can be no motivation to combine Lahtinen with Toda to store data/calls in the memory of a cellular telephone unit."

**Response VI:** examiner respectfully disagrees. In that, first, examiner differs with applicant's interpretation/suggestion that Lahtinen's reference only stores location information. Examiner's view of the same reference is that it also stores calls, as discussed in the responses and in the body of the rejections elsewhere above, particularly in claim 32. Second, examiner concurs with applicant that Lahtinen is silent about storing the call count in a telephone set or a cellular telephone. Specifically, the storing seems to take place in the network, which nonetheless, is not excluded by the claims. Third, both of references have "call counting" as a common denominator, hence with same field of endeavor and combinable, as they did. Fifth, the motivation for

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combining them is provided by Toda, as "assists in optimum utilization of discount tariff during a specified time periods." Therefore, the argument is not persuasive.

Furthermore, applicant, regarding other claims, argues by saying those claims should be patentable by virtue of their dependency on base claims the prior art fails to teach or suggest. Examiner does not see the necessity of making a response/s to this last argument since those base claims are either anticipated or suggested by the prior art of reference, as shown in the rejection of those claims and further provided in the responses to the arguments presented by applicant. Finally, applicant, citing the prosecution history of the case, suggests that the late objection to claims 2-4 and 17-19 is inappropriate and requests withdrawal of the same, while attempting to amend claims 2 and 17 without a change in substance. However, examiner does not find this and other arguments surrounding the objection to the claims in question as convincing.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks-Harold Marsha can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Meless Zewdu



Examiner

28 December 2006



**CHARLES APPIAH  
PRIMARY EXAMINER**